

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

MOZELLA SMITH,

Plaintiff,

v.

No._____

Judge:_____

**STATE FARM FIRE AND
CASUALTY COMPANY a/k/a
STATE FARM VP MANAGEMENT
CORP.,**

Defendant.

NOTICE OF REMOVAL

State Farm Fire and Casualty Company, improperly named as State Farm VP Management Corp., hereby notifies the Judges of the United States District Court for the Western District of Tennessee, the clerk of the Circuit Court of Crockett County, Tennessee, and Mozella Smith, that the action described herein and filed in the Circuit Court of Crockett County, Tennessee, is removed to the United States District Court for the Western District of Tennessee, Eastern Division pursuant to 28 U.S.C. § 1441.

On July 21, 2011, Plaintiff Mozella Smith, filed a civil action bearing docket number 3247 against State Farm Fire and Casualty Company a/k/ State Farm VP Management Corp. (hereinafter "State Farm"), respectively in the Circuit Court of Crockett County, Tennessee. Service of the Complaint and Summons was made upon Defendant State Farm by letter dated July 29, 2011 by delivery of the Summons together with a copy of the Complaint to Defendant's agent through the Commissioner of Insurance. This action is filed by Plaintiff for proceeds allegedly due under a contract of insurance written by Defendant State Farm

insuring a residence and contents in Crockett County, Tennessee, which property was allegedly destroyed by fire occurring on or about July 24, 2010.

Petitioner seeks removal of this action to this court upon the grounds that the controversy is wholly between citizens of different states and involves an amount in controversy which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of the interest and costs. See 28 U.S.C. § 1332. Specifically, the Complaint alleges that the house and contents were destroyed by fire and that Plaintiff should be awarded a judgment against Defendants in the amount of \$137,000.00 plus an additional 25% under the Tennessee Bad-faith Penalty Statute codified at Tennessee Code Annotated § 56-7-105, plus attorneys' fees and treble/punitive damages under the Tennessee Consumer Protection Act codified at Tennessee Code Annotated § 47-18-101 et seq. Punitive damages are properly considered part of the amount in controversy for removal purposes. The Great Tenn. Pizza Co., Inc. v. Bellsouth Telecomm., Inc., 2011 WL 1636234, * 8 (E.D. Tenn. April 29, 2011).

Plaintiff is a resident and citizen of the State of Tennessee and was a resident and citizen of the State of Tennessee at the time of the filing of this action and at the time of removal. Defendant State Farm Fire and Casualty Company, is a corporation incorporated in Connecticut, with its principal place of business in Bloomington, Illinois, McLean County. Defendant State Farm Fire and Casualty Company was at the time of the filing of this action and at the time of removal a citizen of a state other than Tennessee and therefore diversity of citizenship exists between all parties.

The amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and cost. This notice is filed within the time prescribed by 28 U.S.C. § 1446(b). A copy of the Summons and Complaint, being all the papers served upon

Defendant, are attached hereto. Wherefore, notice is hereby given that the said civil action number 3247 is removed from the Circuit Court of Crockett County, Tennessee, to this Court.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: s/Russell E. Reviere
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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this pleading or document was served upon counsel Plaintiff:

Harold E. Dorsey (019361)
10 S. Johnson Street
Alamo, Tennessee 38001
(731) 696-5115

by electronic service or by mailing postage prepaid or by delivery to the person or office of such counsel.

This the 12th day of August, 2011.

s/ Russell E. Reviere